



EPA Region 5 Records Ctr.



275535

**CYTEC INDUSTRIES INC.**  
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June 1, 1999

Sherry Estes, Esq.  
Office of Regional Counsel  
U.S. Environmental Protection Agency  
Region V  
77 West Jackson Boulevard (C-14J)  
Chicago, IL 60604-3590

**RE: Skinner Landfill**

Dear Ms. Estes:

As you may be aware, Cytec Industries Inc. ("Cytec") entered into a de minimis settlement agreement earlier this year with the Plaintiffs in the Skinner Landfill private cost recovery action in the United States District Court for the Southern District of Ohio. In addition to providing for settlement of Plaintiffs' claims regarding their past costs at the Skinner Site, that agreement requires certain of the Plaintiffs to seek to negotiate a de minimis settlement between Cytec Industries Inc. and the United States (on behalf of the U.S. Environmental Protection Agency ("EPA")) that is at least as protective of the company's interest as are the terms of EPA's Model De Minimis Consent Decree set forth in the December 7, 1995 Federal Register.

It is Cytec's understanding that EPA, Region V has now determined what information it will require in order to determine that Cytec qualifies for a de minimis settlement at this Site. That information consists of:

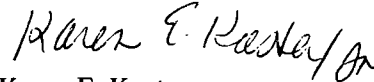
- (i) the summary of Cytec's de minimis settlor's waste-in volume and percentage share of Site Costs, as determined by the Allocator in the Final Allocation Report from the Skinner Alternative Dispute Resolution process (Attachment 1), and
- (ii) the narrative description of the Allocator's findings for Cytec's de minimis settlor, as set forth in the Preliminary Allocation Report (Attachment 2) and, where the Allocator supplemented or altered those findings in the Final Allocation Report, the Final Allocation Report.

Accordingly, I am enclosing the information requested by EPA for Cytec. I believe that this information amply demonstrates that Cytec is entitled to a de minimis settlement consistent with EPA's model de minimis settlement decree. Cytec understands that EPA and Plaintiffs in the private cost recovery litigation will allocate among themselves the monies to be paid by Cytec in settlement of the claims of Plaintiffs and the United States. By making this settlement offer, Cytec does not acknowledge any liability for response cost at the Skinner Site.

Sherry Estes, Esq.  
June 1, 1999  
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In order to ensure that Cytec is able to avoid the incurrence of additional transaction costs in connection with the ongoing Skinner cost recovery litigation, Cytec strongly urges EPA to finalize an appropriate de minimis settlement as expeditiously as possible. Such timely action would fulfill the statutory objectives of Section 122(g) of CERCLA and EPA's de minimis settlement policies, as well as provide needed funds for response actions at the Skinner Site.

Very truly yours,

A handwritten signature in black ink, appearing to read "Karen E. Koster".

Karen E. Koster  
Legal Department

Enc.

cc: C. M. French w/ enc.

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## **Cytec Industries, Inc.**

Settlement Amount:                    \$2,000.00

### **Excerpt from Allocator's Preliminary Report :**

In 1993, American Cyanamid Company ("ACY") spun off its Global Chemicals Division into a separate public entity called Cytec Industries, Inc. In its 1991 response to EPA's 104(e) request on the Skinner Site, ACY listed 3 facilities in some geographic proximity to the Site:

The Hamilton Plant	ACY's facility in Fairfield, Ohio [the "Hamilton Plant"] was owned and/or operated from 1945 - 1996. The plant manufactured dry alum [aluminum sulfate] until 1980, sulfuric acid until 1978 and commercial alum until 1996. In May 1996, the company leased the operating facility to United States Aluminate Company.
The Formica facility	This facility was located on Reading Road in Cincinnati. ACY acquired an interest in Formica Corporation, including this facility, in 1965. The facility began operations in 1951. In 1985, ACY sold its interest in Formica Corporation. Formica Corporation is a participant in the ADR process and is discussed below.
Warehouse	This product distribution facility was located at 10340 Evendale Drive in Cincinnati and was "operated by Lederle." It closed on May 14, 1982. It had been used to store medical and chemical products. Cytec stated that there was no reason to believe that any waste materials or disposal would be associated with this facility.

In its 1991 response to EPA's 104(e) information request, ACY stated that waste from its Formica facility was sent to five disposal locations from 1951 - 1979:

1951 -1967	It used Rumpke. It sent approximately 1,100 tons of waste materials containing resins, solvents polar, esters and ethers, alcohols, ketones and aldehydes.
1969 - 1970	It used the City of Cincinnati and sent approximately 1,100 tons of waste materials containing organics, resins, esters and ethers, alcohols, ketones and aldehydes.
1971 - 1975	It used Northern Kentucky Sanitation Co. in Walton, KY and sent approximately 2,500 tons of waste materials containing the same components as above.
1976	It sent approximately 500 tons of the same waste material to Inland Chemical Corp. in New Castle, KY.

1976 - 1979

It sent approximately 1,000 tons of the same material to Pristine, Inc. in Reading, Ohio.

There is an entry in the Skinner log for American Cyanamid indicating a \$50 charge in 1968 among other entries under a heading that reads "dumping on landfill disposal plant." The address in the log is the address associated with the warehouse facility. Joseph Head, the Hamilton Plant manager, identified this charge as relating to the shipment of two empty metal silos which had been used to store dry aluminum sulfate at the Hamilton plant.

Alum, or aluminum sulfate, is non-hazardous and is used in water treatment applications. Raw materials include alumina hydrate and sulfuric acid. No hazardous wastes were generated during the production of alum. The company stated that according to its Eckhardt survey in 1979, no process wastes from the Hamilton Plant were hauled off for disposal. Waste slurry from alum production was disposed of in on-site surface impoundments. The company's responses to the Eckhardt survey were based on records from 1950 and employee knowledge dating from 1945.

ACY argues that scrap metal would not have been disposed of at the Skinner landfill but would have been recycled because it had value.

No witness was asked about Globe Chemical. Ray Skinner recalled a "Globe Valve" but the recollection was simply that his father talked about Globe Valve. Ray Skinner's testimony with respect to Formica is discussed below. He recalled the demolition of some materials from Formica but one has to wonder whether his description relates to the Globe Valve silos because he described the removal of white powder from the demolition material brought back to the Site. R. Skinner Depo., p. 231-234.

The June 25, 1963 letter to the Butler County Health Department from Bluford Moor, Chairman of the Union Township Improvement Association, states that the Association understands that chemicals "almost as dangerous as cyanide" are being dumped on the property and that the chemicals "are said to have come from" Globe Valve Company, among others. The basis for the Association's understanding was not set forth in the letter and the discovery record to date does not provide any more learning on the subject. The fact that some of the information in the letter has been corroborated (see the discussion on Ford and Dow) gives the letter some weight but, as a matter of preponderance of the evidence, the letter is not enough by itself to trigger anything more than additional discovery, should this matter go forward as to ACY.

**Waste-in Amount.** The only evidence of record regarding the waste associated with the \$50 charge in the log is the statement of Mr. Head that it consisted of two metal silos used to store dry aluminum sulfate. Even if he is right, the evidence was that metal was sold by the Skinners and not disposed of in the Landfill. I do not know whether the silos would have had to be cleaned by the Skinners before they could be sold as scrap. The only countervailing evidence is the heading in the log under which the entry appears: "dumping in landfill disposal plant." In weighing all of the information available to me, I have decided to assign Cytec an allocation of 10 cys for purposes of this process.

Final Allocation Recommendations in Alphabetical Order, Skinner Landfill Superfund Site, April 12, 1999

Name Of Party	Solid Waste In Cys	Liquid Waste In Gallons	Solid Waste In Total Cys	Percentage	Liquid Waste In Total Gallons	Percentage	Solid Waste	Liquid Waste	Owner/ Operator	Rest of Chem-	Total
CYTEC INDUSTRIES INC	10	0	372908	0.0027%	262252	0.0000%	0.00%	0.00%			0.00027%